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Selected Laws Governing Workplace Rights Title 26 MRSA, 1999

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Selected Laws Governing Workplace Rights
Title 26 MRSA

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Title 26 - Section 601. Rest breaks

In the absence of a collective bargaining agreement or other written employer-employee agreement providing otherwise, an employee, as defined in section 663, may be employed or permitted to work for no more than 6 consecutive hours at one time unless he is given the opportunity to take at least 30 consecutive minutes of rest time, except in cases of emergency in which there is danger to property, life, public safety or public health. This rest time may be used by the employee as a mealtime.

1. Small business. This section does not apply to any place of employment where:

- A. Fewer than 3 employees are on duty at any one time; and
- B. The nature of the work done by the employees allows them frequent breaks during their work day.

Title 26 - Section 621. Time of payment

1. Certain employers; payment schedule. Every corporation, person or partnership engaged in a manufacturing, mechanical, mining, quarrying, mercantile, restaurant, hotel, summer camp, beauty parlor, amusement, telegraph or telephone business; in any of the building trades; in logging or lumbering operation; upon public works or in the construction or repair of roads, bridges, sewers, gas, water or electric light works, pipes or lines; every incorporated express company or water company; and every steam railroad company or corporation shall pay weekly each employee engaged in its business the wages earned by the employee to within 8 days of the date of that payment; every county shall so pay every employee who is engaged in its business the wages or salary earned by that employee, unless the employee requests in writing to be paid in a different manner. Municipalities shall pay their employees at least once every 2 weeks unless the employee agrees to be paid under a less frequent pay schedule. An employee who is absent from that employee's regular place of employment at a time fixed for payment must be paid on demand.

2. All employers; payment of balance of hourly wages. Any employer, regardless of whether enumerated in subsection 1, shall pay to its employee, on or before the employee's next regularly scheduled payday, the balance of the employee's earned hourly wages due to be paid which were not paid on the date normally scheduled for payment of those wages. This subsection shall not be construed to permit nonpayment or withholding of payment of wages when due.

Title 26 - Section 622. Records

A true record shall be kept showing the date and amount paid to each person engaged in any of the above occupations. There shall be kept a daily record of the time worked by such person, excepting such employees as are paid a fixed weekly salary regardless of the number of hours worked, the same to be accessible at any reasonable hour to any representative of the department. Nothing contained in sections 621 to 623 shall excuse any employer mentioned in section 702 from keeping the records required by said section 702.

Title 26 - Section 626. Cessation of employment

An employee leaving employment must be paid in full within a reasonable time after demand at the office of the employer where payrolls are kept and wages are paid, provided that any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by the employee. Whenever the terms of employment include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned.

For purposes of this section, the term "employee" means any person who performs services for another in return for compensation, but does not include an independent contractor.

For purposes of this subchapter, a reasonable time means the earlier of either the next day on which employees would regularly be paid or a day not more than 2 weeks after the day on which the demand is made.

In any action for unpaid wages brought under this subchapter, the employer may not deduct as a setoff or counterclaim any money allegedly due the employer as compensation for damages caused to the employer's property by the employee, or any money allegedly owed to the employer by the employee, notwithstanding any procedural rules regarding counteractions, provided that any overcompensation may be withheld if authorized under section 635 and any loan or advance against future earnings or wages may be deducted if evidenced by a statement in writing signed by the employee, and that nothing in this section may be construed to limit or restrict in any way any rights that the employer has to recover, by a separate legal action, any money owed the employer by the employee.

An action for unpaid wages under this section may be brought by the affected employee or employees or by the Department of Labor on behalf of the employee or employees. An employer found in violation of this section is liable for the amount of unpaid wages and, in addition, the judgment rendered in favor of the employee or employees must include a reasonable rate of interest, an additional amount equal to twice the amount of those wages as liquidated damages and costs of suit, including a reasonable attorney's fee.

Within 2 weeks after the sale of a business, the seller of the business shall pay employees of that business any wages earned while employed by the seller. If the terms of employment include provisions for paid vacations, vacation pay on cessation of employment has the same status as wages earned. The seller of a business may comply with the provisions of this paragraph through a specific agreement with the buyer in which the buyer agrees to pay any wages earned by employees through employment with the seller and to honor any paid vacation earned under the seller's vacation policy.

Title 26 - Section 629. Unfair agreements

No person, firm or corporation shall require or permit any person as a condition of securing or retaining employment to work without monetary compensation or when having an agreement, verbal, written or implied that a part of such compensation should be returned to the person, firm or corporation for any reason other than for the payment of a loan, debt or advance made to the person, or for the payment of any merchandise purchased from the employer or for sick or

accident benefits, or life or group insurance premiums, excluding compensation insurance, which an employee has agreed to pay, or for rent, light or water expense of a company-owned house or building. This section shall not apply to work performed in agriculture or in or about a private home.

For purposes of this subchapter, the word "debt" means a benefit to the employee. Debt does not include items incurred by the employee in the course of the employee's work or dealing with the customers on his employer's behalf, such as cash shortages, inventory shortages, dishonored checks, dishonored credit cards, damages to the employer's property in any form or any merchandise purchased by a customer.

An employer shall be liable to the employees for the amount returned to the employer as prohibited in this section.

Title 26 - Section 630. Written statement of reason for termination of employment

An employer shall, upon written request of the affected employee, give that employee the written reasons for the termination of his employment. **An employer who fails to satisfy this request within 15 days of receiving it may be subject to a forfeiture of not less than \$50 nor more than \$500.**

Title 26 - Section 631. Employee right to review personnel file

The employer shall, upon written request from an employee or former employee, provide the employee, former employee or duly authorized representative with an opportunity to review and copy the employee's personnel file if the employer has a personnel file for that employee. The reviews and copying must take place at the location where the personnel files are maintained and during normal office hours unless, at the employer's discretion, a more convenient time and location for the employee are arranged. The cost of copying is paid by the person requesting the copy. For the purpose of this section, a personnel file includes, but is not limited to, any formal or informal employee evaluations and reports relating to the employee's character, credit, work habits,

compensation and benefits and nonprivileged medical records or nurses' station notes relating to the employee which the employer has in the employer's possession. Any employer who, following a request pursuant to this section, without good cause fails to provide an opportunity for review and copying of a personnel file, within 10 days of receipt of that request, is subject to a civil forfeiture of \$25 for each day that a failure continues. The total forfeiture may not exceed \$500. For the purposes of this section, the term "nonprivileged medical records or nurses' station notes" means all those materials that have not been found to be protected from discovery or disclosure in the course of civil litigation under the Maine Rules of Civil Procedure, Rule 26, the Maine Rules of Evidence, Article V or similar rules adopted by the Workers' Compensation Board or other administrative tribunals.

26 † 664. Minimum wage; overtime rate

Except as otherwise provided in this subchapter, an employer may not employ any employee at a rate less than the rates required by this section.

1. Minimum wage. The minimum hourly wage is \$4.25 per hour. If the highest federal minimum wage is increased in excess of \$4.25 per hour, the minimum wage must be increased to the same amount, effective on the same date as the increase in the federal minimum wage, but in no case may the minimum wage exceed \$5.15 per hour.

2. Tip credit. An employer may consider tips as part of the wages of a service employee, but such a tip credit may not exceed 50% of the minimum hourly wage established in this section. An employer who elects to use the tip credit must inform the affected employee in advance and must be able to show that the employee receives at least the minimum hourly wage when direct wages and the tip credit are combined. Upon a satisfactory showing by the employee or the employee's representative that the actual tips received were less than the tip credit, the employer shall increase the direct wages by the difference.

3. Overtime rate. An employer may not require an employee to work more than 40 hours in any one week unless 1 1/2 times the regular hourly rate is paid for all hours actually worked in excess of 40 hours in that week. The regular hourly rate includes all earnings, bonuses, commissions and other compensation that is

defined in section 663, for the purpose of examining and inspecting such records; and copy any or all of such records as he or his authorized representative may deem necessary or appropriate. Any and all information so received shall be considered as confidential and shall not be divulged to any other person or agency, except insofar as may be necessary for the enforcement of this subchapter.

2. Rules and regulations. The director may make and promulgate from time to time, pursuant to Title 5, section 8051 et seq., such rules and regulations, not inconsistent with this subchapter, as he may deem appropriate or necessary for the proper administration and enforcement of this subchapter. The rules and regulations affecting any particular class of employees and employers shall be made and promulgated only after notice and opportunity to be heard to those employees and employers affected.